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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

DONNIE G. HUMPHRIES, et al.

CIVIL DOCKET NO.: 07-0244

versus

YAMAHA MOTOR CORPORATION,
USA, et al.

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

ORDER

Before the court is a products liability action which was originally filed by Donnie G. Humphries and Leah K. Humphries individually and on behalf of their minor sons Matthew H. Humphries and Alex Humphries in the Seventh Judicial District Court, Parish of Catahoula, State of Louisiana on or about March 16, 2007. Defendants filed a notice of removal in this court on or about February 14, 2007 and removal was ordered on February 22, 2007.

Plaintiffs allege that Matthew H. Humphries, a minor, sustained injuries as a result of an off road motor vehicle accident which occurred on January 16, 2006. On or about April 14, 2008, plaintiffs, in their Motion for Authority to Settle Minor's Claim (Doc. Item 42), advised that the parties wished to settle and compromise the claims of the minor child, Matthew H. Humphries and sought complete and effective release and dismissal of all claims asserted by plaintiffs on behalf of themselves and the minor

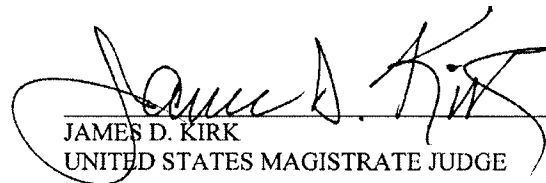
children.

The Louisiana Code of Civil Procedure is clear as to the manner in which the claims of a minor child may be compromised and settled. According to Civil Code Article 4265 a tutor must seek and obtain court approval pursuant to Article 4271¹ prior to compromising the minor child's interests in an action or right of action. Court approval must be provided by a court of competent jurisdiction in order for the settlement agreement to be effected and considered valid. Johnson v. Ford Motor Co., 707 F.2d 189 (5th. Cir. 1983).

Therefore, upon plaintiffs' petitioning a state court judge of competent jurisdiction and upon obtaining authority from that judge to settle the minor child's claims, the United States district judge will dismiss the instant case.

Accordingly, plaintiffs' motion seeking authority to settle the minor's claims is DENIED.

THUS DONE AND SIGNED at Alexandria, Louisiana, this 9th day of May, 2008.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE

¹ "The tutor shall file a petition setting forth the subject matter to be determined affecting the minor's interests, with his recommendations and the reasons therefor, and with a written concurrence by the undertutor. If the court approves that recommendations, it shall render a judgment of homologation. The court may require evidence prior to approving the recommendations....." LA.C.C.P. Art. 4261.